

STATE OF MAINE  
PUBLIC UTILITIES COMMISSION

Docket No. 2004-26

February 13, 2004

CENTRAL MAINE POWER COMPANY  
Request for Approval of Location of Easements  
By Eminent Domain Over Four Parcels of Land in  
York County

ORDER

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WELCH, Chairman; DIAMOND and REISHUS, Commissioners

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**I. SUMMARY**

We approve the location of an easement to be taken by eminent domain for a transmission line that Central Maine Power Company will build in southern York County.

**II. BACKGROUND**

On January 13, 2004, Central Maine Power Company (CMP) filed a petition for approval, pursuant to 35-A M.R.S.A. § 3136, of the location of easements to be taken by eminent domain for transmission lines in southern York County. The transmission lines are part of CMP's "Southern York County Transmission Reinforcement Project" (the York Project). The York Project was the subject of a 10-person complaint concerning the need and proper location of the proposed transmission project. Last summer, the Commission approved a stipulation that resolved the complaint. *Laurie Downs et al., Central Maine Power Company*, Docket No. 2002-665 (Aug. 14, 2003). The stipulation described the preferred route for locating the new transmission lines.

Section 3136 grants T&D utilities the right to take lands and easements for transmission lines by eminent domain. Pursuant to subsection 4 of section 3136, the Commission must approve the location to be taken by eminent domain. As originally filed, CMP requested approval for the location of easements over four parcels of land. By the time a hearing was held on CMP's request on February 4, 2004, CMP had reached agreements with three of the landowners. The hearing focused on the landowner who had not granted CMP an easement, Donald Blinn.

Mr. Blinn and representatives of CMP attended the hearing. Mr. Blinn's property subject to CMP's request includes considerable frontage along U.S. Route 1 in York. CMP, with the assistance of aerial photographs, explained the nature of the construction that is needed within the Department of Transportation (DOT) right-of-way along U.S. Route 1. Because the new transmission line will be "overbuilt" on top of existing distribution lines, existing poles within the DOT right-of-way will be replaced by taller poles. The taller poles will require guy wires and other supports that will extend beyond the DOT right-of-way and onto Mr. Blinn's property. CMP requires the easement on Mr. Blinn's property in order to place the supports necessary for the new taller poles and transmission line.

Mr. Blinn understood that the transmission line was the subject of the prior Commission proceeding, and that the need and location had been decided in that proceeding. He stated two concerns about CMP's request to exercise eminent domain to obtain a new easement on his land. First, he wanted assurance that, in regards to an existing transmission line easement on his property,<sup>1</sup> he could still build a habitable dwelling within 300 feet of the line, and that he could still use the land within the easement for other purposes, such as for an access road to other parts of his property. Second, Mr. Blinn wanted the new easement to be as narrow as possible. He stated he was not certain that CMP needed to protrude onto his land as far as CMP proposed in order to support the guy wires.

After further discussions at the hearing involving Commissioners and Advisory Staff as well as CMP and Mr. Blinn, Mr. Blinn agreed that his first concern could be addressed by a letter from CMP's attorney explaining CMP's views as to the scope of the easements that CMP has obtained and will obtain from Mr. Blinn. As to Mr. Blinn's second concern, it was agreed that a member of the Commission's technical staff would meet with CMP's engineering design staff and Mr. Blinn at Mr. Blinn's property to review the design of the support structures that would be placed on Mr. Blinn's property.

That meeting took place at Mr. Blinn's property on February 5, 2004. Based upon discussions between CMP's and the Commission's technical staff, CMP agreed that adequate support for the transmission line could be achieved with an easement about five feet less in width than CMP originally proposed. Accordingly, on February 6, 2004, CMP modified its request for the narrower easement. As part of its February 6, filing, CMP also included a copy of a letter from its lawyer to Mr. Blinn addressing the legal scope of a CMP easements.

Upon reporting back to the Commission, the Commission's technical advisor stated his opinion that CMP could not narrow the easement any more and still reasonably assure the safety of the new transmission line. The technical advisor also communicated his opinion to Mr. Blinn during the February 5 meeting at Mr. Blinn's property.

### **III. DECISION**

The need for and the proper location of the transmission line along U.S. Route 1 was established through an extensive Commission proceeding. The use of transmission line "over builds" over existing distribution lines was instrumental in reducing adverse environmental and land use impacts that would otherwise be caused by the new transmission line. CMP has worked with Mr. Blinn and our Staff to reduce

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<sup>1</sup> Perpendicular to U.S. Route 1, CMP already owns a right-of-way that runs through Mr. Blinn's property. Transmission Line 139, that runs from the Ogunquit substation to a substation in York Harbor, is located in the right-of-way.

the width of the easement that will be taken by eminent domain. Any further reduction in the size of the easement will unreasonably jeopardize the safety of the new line.

Therefore, we approve the location of the easement on Mr. Blinn's property to be taken by eminent domain as described in CMP's amended request in its February 6 filing. We do so because CMP has satisfied, to the extent reasonably possible, all concerns as raised by Mr. Blinn.<sup>2</sup>

Dated at Augusta, Maine, this 13<sup>th</sup> day of February, 2004.

BY ORDER OF THE COMMISSION

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Dennis L. Keschl  
Administrative Director

COMMISSIONERS VOTING FOR:      Welch  
   Diamond  
   Reishus

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<sup>2</sup> Some statements by Mr. Blinn at the hearing concerned the value of the property interest to be taken. As explained to Mr. Blinn at the hearing, disputes about "just compensation" are a matter for the county Commissioners. See 35-A M.R.S.A. §§ 3136(1) and (3) and 6503.

## NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within **21 days** of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.